#### IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DAWN A. GRAVES

1040 Cold Stream Circle, Apt. L

Emmaus, PA 18049

CIVIL ACTION

NO.:

Plaintiff,

v.

LEHIGH VALLEY HEALTH NETWORK, INC.

d/b/a LVHN

1200 South Cedar Crest Blvd.

Allentown, PA 18103

and

LEHIGH VALLEY HOSPITAL, INC.

d/b/a LVHN

2100 Mack Blvd.

Allentown, PA 18103

Defendants.

**JURY TRIAL DEMANDED** 

#### **CIVIL ACTION COMPLAINT**

Dawn A. Graves (*hereinafter* referred to as "Plaintiff," unless indicated otherwise) by and through her undersigned counsel, hereby avers as follows:

#### **INTRODUCTION**

1. Plaintiff has initiated this action to redress violations by Lehigh Valley Health Network, Inc. *d/b/a* LVHN and Lehigh Valley Hospital, Inc. *d/b/a* LVHN (*hereinafter* collectively referred to as "Defendants," unless indicated otherwise) of Title VII of the Civil Rights Act of 1964 ("Title VII" – 42 U.S.C. §§ 200d *et seq.*), Section 1981 of the Civil Rights Act of 1866 ("Section 1981" – 42 U.S.C. § 1981), and the Pennsylvania Human Relations Act ("PHRA"). As a direct consequence of Defendants' unlawful actions, Plaintiff seeks damages as set forth herein.

<sup>&</sup>lt;sup>1</sup> Plaintiff's claims under the PHRA are referenced herein for notice purposes. She is required to wait 1 full year before initiating a lawsuit from date of dual-filing with the EEOC. Plaintiff must however file her lawsuit in advance

#### **JURISDICTION AND VENUE**

- 2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1342(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws. There lies supplemental jurisdiction over Plaintiff's state-law claims because they arise out of the same common nucleus of operative facts as Plaintiff's federal claims asserted herein.
- 3. This Court may properly assert personal jurisdiction over the Defendants because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standards set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 325 U.S. 310 (1945) and its progeny.
- 4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because Defendants are deemed to reside where they are subjected to personal jurisdiction, rendering Defendants residents of the Eastern District of Pennsylvania.
- 5. Plaintiff is proceeding herein under Title VII after properly exhausting all administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and by filing the instant lawsuit within ninety ("90") days of receiving a notice of dismissal and/or right-to-sue letter from the EEOC.

2

of same because of the date of issuance of her federal right-to-sue-letter under Title VII. Plaintiff's PHRA claims however will mirror identically her federal claims under Title VII.

#### **PARTIES**

- 6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 7. Plaintiff is an adult individual with an address as set forth in the caption.
- 8. Defendants Lehigh Valley Health Network, Inc. *d/b/a* LVHN and Lehigh Valley Hospital, Inc. *d/b/a* LVHN (*hereinafter* collectively referred to as "Defendants") are non-profit (non-stock) entities that own and operate several facilities including but not limited to an Administrative Building located at 2100 Mack Blvd., Allentown, Pennsylvania 18103 the physical location at which Plaintiff worked.
- 9. Upon information and belief, because of their interrelation of operations, common ownership or management, centralized control of labor relations, common ownership or financial controls, and other factors, Defendants are sufficiently interrelated and integrated in their activities, labor relations, ownership and management that they may be treated as a single and/or joint employer for purposes of the instant action.
- 10. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for the Defendants.

#### FACTUAL BACKGROUND

- 11. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 12. Plaintiff is black (African-American) female.
- 13. Plaintiff was employed by Defendants in various roles in different departments for approximately 5 years, from in or about 2016 until her unlawful termination (discussed further *infra*) on or about March 15, 2021.

- 14. Plaintiff was employed in the Prior Authorization Department, working from Defendants' Administrative Building, located at 2100 Mack Blvd., Allentown, Pennsylvania, beginning in 2018. Plaintiff's job duties involved insurance pre-certifications and other procedures.
- 15. At the time of her termination, Plaintiff was primarily supervised by Manager Pre-Certification Department, Amanda Gurgick (Caucasian – *hereinafter* "Gurgick").
- 16. During her tenure with Defendants, all of Defendants' management in Plaintiff's department were Caucasian and/or non-black, and Plaintiff was one of only two minority employees on her team.
- 17. Upon Plaintiff's observations and belief, Defendants' work environment has been disparate and unfairly harsh toward black and/or non-Caucasian employees.
- 18. Throughout the course of Plaintiff's employment with Defendants, Plaintiff and the other minority employee (Hispanic female) were subjected to race discrimination, harassment, and disparate treatment by Defendants' non-black and/or Caucasian management. For example, but not intended to be an exhaustive list, unlike her non-black and/or Caucasian co-workers, Gurgick:
  - a. Treated Plaintiff in a condescending and derogatory manner and regularly spoke down to her;
  - b. Overly scrutinized and criticized Plaintiff's work;
  - c. Selectively enforced policies against Plaintiff and her Hispanic co-worker;
  - d. Berated and or criticized Plaintiff and her Hispanic co-worker for raising concerns in a professional manner; however, at least one Caucasian employee who regularly

- disrespected managers during meetings, was never disciplined or terminated for same;<sup>2</sup> and
- e. Unfairly disciplined and/or terminated minority employees, including Plaintiff and her Hispanic co-worker, for conduct that Caucasian employees were not terminated and/or barely issued counseling for.
- 19. After observing and/or being subjected to the aforesaid instances of race discrimination and disparate treatment for months, Plaintiff was abruptly terminated on or about March 15, 2021, for pretextual reasons allegedly "falsification of time records."
- 20. Defendants' purported reason for Plaintiff's termination, however, is completely pretextual because: (1) Plaintiff did not "falsify" her time records with her employer, she simply adjusted her clock-in time on March 1, 2021, to account for going back home to gather her work badge, informing Gurgick that she would use that time as her break and would not take one later; (2) when Gurgick advised Plaintiff to change her clock-in time to reflect her later arrival at work, Plaintiff did so, and her time sheet was correctly and accurately submitted thereafter; (3) nevertheless, Plaintiff was abruptly terminated despite having submitted an accurate time sheet for March 1, 2021, and working her full 8 hours that day; and (4) upon Plaintiff's information and belief, just a few months prior to her termination, at least two different Caucasian employees had been willfully violating Defendants' policies regarding accurately reporting time by clocking out and continuing to work for Defendants in order to meet production quotas; however, they were only given warnings (with one being placed on a Performance Improvement Plan) but were not terminated, even though they had engaged in falsifying time records on multiple occasions for several months.

5

<sup>&</sup>lt;sup>2</sup> Upon Plaintiff's information and belief, her Hispanic co-worker was unfairly terminated in or about 2020 for constructively speaking to management about her concerns, while the belligerent and disrespectful Caucasian employee was retained and continues to work for Defendants.

21. Plaintiff believes and therefore avers that she was subjected to a hostile work environment and terminated because of her race.

#### **COUNT I**

## <u>Violation of Title VII of the Civil Rights Act of 1964 ("Title VII")</u> ([1] Race Discrimination and [2] Hostile Work Environment)

- 22. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
- 23. During Plaintiff's employment with Defendants, she was subjected to discrimination and a hostile work environment through disparate treatment and demeaning and/derogatory treatment because of her race.
- 24. On or about March 15, 2021, Plaintiff was abruptly terminated for pretextual reasons.
- 25. Plaintiff believes and therefore avers that she was subjected to a hostile work environment and terminated from her employment with Defendants because of her race.
- 26. These actions as aforesaid constitute unlawful discrimination and a hostile work environment under Title VII.

#### **COUNT II**

#### Violations of 42 U.S.C. Section 1981

#### ([1] Race Discrimination and [2] Hostile Work Environment)

- 27. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
- 28. During Plaintiff's employment with Defendants, she was subjected to discrimination and a hostile work environment through disparate treatment and demeaning and/derogatory treatment because of her race.
- 29. On or about March 15, 2021, Plaintiff was abruptly terminated for pretextual reasons.

- 30. Plaintiff believes and therefore avers that she was subjected to a hostile work environment and terminated from her employment with Defendants because of her race.
- 31. These actions as aforesaid constitute unlawful discrimination and a hostile work environment under Section 1981.

#### **WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

- A. Defendants are to promulgate and adhere to a policy prohibiting discrimination in the future against any employee(s);
- B. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, salary pay increases, bonuses, insurance, benefits, training, promotions, reinstatement and seniority;
- C. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;
- D. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress, pain, suffering and humiliation); and
- E. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.
- F. Plaintiff is to be awarded any and all statutory enhancements available as a matter of law.
- G. Plaintiff demands trial by jury on all issues so triable consistent with Fed. R. Civ.P. 38(a)(1).

Respectfully submitted,

KARPF, KARPF & CERUTTI P.C.

By:

Ari Karpf, Esq. 3331 Street Rd. Two Greenwood Square, Suite 128 Bensalem, PA 19020 (215) 639- 0801

Dated: September 21, 2021

# IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

### CASE MANAGEMENT TRACK DESIGNATION FORM

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Dawn A. Graves		:	CIVIL ACTION	
v.		:		
gh Valley Health Network, Inc.	d/b/a LVHN, et al.	; ;	NO.	
plaintiff shall complete a Ci filing the complaint and serv side of this form.) In the designation, that defendant	ase Management ' ve a copy on all de event that a defer shall, with its firs arties, a Case Man	Track Des fendants. ndant doe it appearar nagement '	ay Reduction Plan of this court, counse ignation Form in all civil cases at the tir (See § 1:03 of the plan set forth on the rest not agree with the plaintiff regarding ace, submit to the clerk of court and services. Designation Form specifying the signed.	ne of verse said
SELECT ONE OF THE F	OLLOWING CA	ASE MAN	AGEMENT TRACKS:	
(a) Habeas Corpus - Cases	brought under 28	U.S.C. §	2241 through § 2255.	( )
(b) Social Security - Cases and Human Services de	requesting reviev	v of a deci cial Secur	sion of the Secretary of Health ity Benefits.	( )
(c) Arbitration - Cases requ	uired to be design	ated for a	bitration under Local Civil Rule 53.2.	( )
(d) Asbestos – Cases involvexposure to asbestos.	ving claims for pe	rsonal inju	ury or property damage from	( )
commonly referred to a the court. (See reverse	s complex and tha	at need spe	racks (a) through (d) that are ecial or intense management by led explanation of special	
management cases.)				( )
(f) Standard Management -	- Cases that do no	t fall into	any one of the other tracks.	(X)
9/21/2021			Plaintiff	-
Date	Attorney-a	t-law	Attorney for	
(215) 639-0801	(215) 639-49	70	akarpf@karpf-law.com	
<del>Tel</del> ephone	FAX Num	ber	E-Mail Address	

(Civ. 660) 10/02

# Case 5:21-cv-04152-Jante Docaments fried 02/21/21 Page 10 of 11 For the eastern district of Pennsylvania

**DESIGNATION FORM**(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1040 Cold Stream Circle, Apt L, Emmaus, PA 18049								
Address of Defendant: 1200 South Cedar Crest Blvd., Allentown, PA 18103; 2100 Mack Blvd., Allentown, PA 18103  Place of Accident, Incident or Transaction: Defendants place of business								
Place of Accident, Incident or Transaction: Defendants place of business								
RELATED CASE, IF ANY:								
Case Number: Judge:	Date Terminated:							
Civil cases are deemed related when Yes is answered to any of the following questions:								
1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?								
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit  Yes  No X								
3. Does this case involve the validity or infringement of a patent already numbered case pending or within one year previously terminated actions.								
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights  Case filed by the same individual?  Yes  No X								
I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.								
DATE: 9/21/2021 ARK2484 / 91538								
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)								
CIVIL: (Place a √ in one category only)								
CIVIL: (Place a $$ in one category only)  A. Federal Question Cases:	B. Diversity Jurisdiction Cases:							
<ul> <li>A. Federal Question Cases:</li> <li>1. Indemnity Contract, Marine Contract, and All Other Contracts</li> <li>2. FELA</li> </ul>	<ul> <li>1. Insurance Contract and Other Contracts</li> <li>2. Airplane Personal Injury</li> </ul>							
<ul> <li>A. Federal Question Cases:</li> <li>1. Indemnity Contract, Marine Contract, and All Other Contracts</li> <li>2. FELA</li> <li>3. Jones Act-Personal Injury</li> <li>4. Antitrust</li> </ul>	<ol> <li>Insurance Contract and Other Contracts</li> <li>Airplane Personal Injury</li> <li>Assault, Defamation</li> <li>Marine Personal Injury</li> </ol>							
A. Federal Question Cases:  1. Indemnity Contract, Marine Contract, and All Other Contracts 2. FELA 3. Jones Act-Personal Injury 4. Antitrust 5. Patent 6. Labor-Management Relations	<ol> <li>Insurance Contract and Other Contracts</li> <li>Airplane Personal Injury</li> <li>Assault, Defamation</li> <li>Marine Personal Injury</li> <li>Motor Vehicle Personal Injury</li> <li>Other Personal Injury (Please specify):</li> </ol>							
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### Case 5:21-cv-04152-JFL Document 1 Filed 09/21/21 Page 11 of 11 CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of initiating the civil do	ocket sheet. (SEE INSTRUCT	TIONS ON NEXT PAGE OF T	this FORM.)	74, is required for the use of the	e Clerk of Court for the			
I. (a) PLAINTIFFS			DEFENDANTS	DEFENDANTS				
GRAVES, DAWN A.			LEHIGH VALLEY HEALTH NETWORK, INC. D/B/A LVHN, ET AL.					
(b) County of Residence of First Listed Plaintiff Lehigh (EXCEPT IN U.S. PLAINTIFF CASES)  (c) Attorneys (Firm Name, Address, and Telephone Number)			County of Residence of First Listed Defendant Lehigh  (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.					
							Attorneys (If Known)	
			Karpf, Karpf & Cerutti, l			quare,		
Suite 128, Bensalem, PA	19020; (215) 639-08	01; akarpf@karpf-lav	w.com					
II. BASIS OF JURISDI	CTION (Place an "X" in O	ne Box Only)	II. CITIZENSHIP OF P	RINCIPAL PARTIES	(Place an "X" in One Box for Plaintit			
		(For Diversity Cases Only) and One Box for Defendant)						
1 U.S. Government X 3 Federal Question Plaintiff (U.S. Government Not a Party)		Not a Party)	$\begin{array}{c ccccccccccccccccccccccccccccccccccc$					
2 U.S. Government Defendant	4 Diversity (Indicate Citizenshi	ip of Parties in Item III)	Citizen of Another State	2 Incorporated <i>and</i> Pri of Business In A				
			Citizen or Subject of a Foreign Country	3 Foreign Nation	6 6			
IV. NATURE OF SUIT		oly) ORTS	FORFEITURE/PENALTY	Click here for: Nature of BANKRUPTCY	of Suit Code Descriptions. OTHER STATUTES			
110 Insurance	PERSONAL INJURY	PERSONAL INJURY	625 Drug Related Seizure	, 422 Appeal 28 USC 158	375 False Claims Act			
<ul><li>120 Marine</li><li>130 Miller Act</li></ul>	' 310 Airplane ' 315 Airplane Product	365 Personal Injury - Product Liability	of Property 21 USC 881 690 Other	423 Withdrawal 28 USC 157	' 376 Qui Tam (31 USC 3729(a))			
<ul> <li>140 Negotiable Instrument</li> <li>150 Recovery of Overpayment</li> </ul>	Liability ' 320 Assault, Libel &	<ul> <li>367 Health Care/ Pharmaceutical</li> </ul>		PROPERTY RIGHTS	<ul><li>400 State Reapportionment</li><li>410 Antitrust</li></ul>			
& Enforcement of Judgment	Slander	Personal Injury		□ 820 Copyrights	3 430 Banks and Banking			
<ul><li>151 Medicare Act</li><li>152 Recovery of Defaulted</li></ul>	' 330 Federal Employers' Liability	Product Liability  368 Asbestos Personal		<ul><li>830 Patent</li><li>835 Patent - Abbreviated</li></ul>	<ul><li>450 Commerce</li><li>460 Deportation</li></ul>			
Student Loans	' 340 Marine	Injury Product		New Drug Application	3 470 Racketeer Influenced and			
(Excludes Veterans)  153 Recovery of Overpayment	' 345 Marine Product Liability	Liability PERSONAL PROPERTY	LABOR	3 840 Trademark SOCIAL SECURITY	Corrupt Organizations  480 Consumer Credit			
of Veteran's Benefits	' 350 Motor Vehicle	370 Other Fraud	710 Fair Labor Standards	' 861 HIA (1395ff)	490 Cable/Sat TV			
<ul><li>160 Stockholders' Suits</li><li>190 Other Contract</li></ul>	' 355 Motor Vehicle Product Liability	<ul><li>371 Truth in Lending</li><li>380 Other Personal</li></ul>	Act  720 Labor/Management	<ul><li>862 Black Lung (923)</li><li>863 DIWC/DIWW (405(g))</li></ul>	<ul> <li>850 Securities/Commodities/ Exchange</li> </ul>			
■ 195 Contract Product Liability	' 360 Other Personal	Property Damage	Relations	□ 864 SSID Title XVI	■ 890 Other Statutory Actions			
196 Franchise	Injury ' 362 Personal Injury -	<ul> <li>385 Property Damage Product Liability</li> </ul>	<ul><li>740 Railway Labor Act</li><li>751 Family and Medical</li></ul>	' 865 RSI (405(g))	<ul><li>891 Agricultural Acts</li><li>893 Environmental Matters</li></ul>			
	Medical Malpractice	•	Leave Act		3 895 Freedom of Information			
REAL PROPERTY  210 Land Condemnation	CIVIL RIGHTS  440 Other Civil Rights	PRISONER PETITIONS Habeas Corpus:	<ul><li>790 Other Labor Litigation</li><li>791 Employee Retirement</li></ul>	FEDERAL TAX SUITS  870 Taxes (U.S. Plaintiff	Act  Section 896 Arbitration			
220 Foreclosure	☐ 441 Voting	463 Alien Detainee	Income Security Act	or Defendant)	899 Administrative Procedure			
230 Rent Lease & Ejectment	X 442 Employment	510 Motions to Vacate		871 IRS—Third Party     CAUCATON	Act/Review or Appeal of Agency Decision			
<ul><li>240 Torts to Land</li><li>245 Tort Product Liability</li></ul>	<ul> <li>443 Housing/ Accommodations</li> </ul>	Sentence  530 General		26 USC 7609	950 Constitutionality of			
290 All Other Real Property	445 Amer. w/Disabilities -	535 Death Penalty	IMMIGRATION 7 A CONTROL OF THE PROPERTY OF THE		State Statutes			
	Employment  446 Amer. w/Disabilities -	Other:  540 Mandamus & Other	<ul><li>462 Naturalization Application</li><li>465 Other Immigration</li></ul>					
	Other  448 Education	<ul><li>550 Civil Rights</li><li>555 Prison Condition</li></ul>	Actions					
	448 Education	560 Civil Detainee -						
		Conditions of Confinement						
V. ORIGIN (Place an "X" is	n One Box Only)		•		•			
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THE CALLED OF A CITY	Title VII (42USC	ntute under which you are f C2000); Section 1981	iling (Do not cite jurisdictional statu (42USC1981)	tes unless diversity):				
VI. CAUSE OF ACTIO	Brief description of ca	use: e VII, Section 1981 a	and the PHR A					
VII. REQUESTED IN		IS A CLASS ACTION	DEMAND \$	CHECK YES only	if demanded in complaint:			
COMPLAINT:	UNDER RULE 2	3, F.R.Cv.P.		JURY DEMAND:	: XYes 'No			
VIII. RELATED CASI IF ANY	E(S) (See instructions):	JUDGE		DOCKET NUMBER				
DATE 9/21/2021		SIGNATURE OF ATTO	RNEY OF RECORD					
FOR OFFICE USE ONLY	<i></i>							
RECEIPT# AM	MOUNT	APPLYING IFP	JUDGE	MAG. JUD	OGE			

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